

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH FREI,

No. C-05-01191 EDL

Plaintiff,

**ORDER REQUIRING FURTHER  
BRIEFING**

v.

HARTFORD LIFE INSURANCE  
COMPANY,

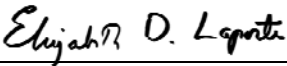
Defendant.

Defendant's motion for summary judgment is under submission. The Court is considering remanding this matter for the Plan Administrator to determine whether the limitations stated in Dr. Lawrence Schlachter's report (allowances for the ability to stand, sit, stretch and rest) in combination with the evidence of Plaintiff's pain, render Plaintiff unable to perform the essential duties of her occupation. See, e.g., Saffle v. Sierra Pacific Power Co. Bargaining Unit Long Term Disability Income Plan, 85 F.3d 455, 460-61 (9th Cir. 1996) (finding that plan administrator abused its discretion "by erroneously factoring 'accommodation' into the criteria for total disability for purposes of occupational disability benefits," where the plan language at issue stated that a participant was totally disabled if he "is completely unable to perform each and every duty of his regular occupation" for a certain amount of time, and stating that "remand for reevaluation of the merits of a claim is the correct course to follow when an ERISA plan administrator, with discretion to apply a plan, has misconstrued the Plan and applied a wrong standard to a benefits determination"). Accordingly, no later than March 3, 2006, the parties shall file simultaneous briefs regarding remand. Briefs shall be no longer than five pages.

The deadline for the parties to file their pretrial materials is extended to March 17, 2006.

**IT IS SO ORDERED.**

Dated: February 27, 2006

  
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ELIZABETH D. LAPORTE  
United States Magistrate Judge